

5
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9 Attorneys for Creditors
10 KARSAN T. ELLIOTT, Individually, and JAMES
11 A. MOORE, as Successor Trustee of the WALTER
12 C. ELLIOTT and GEORGANA ELLIOTT
13 REVOCABLE TRUST

14 UNITED STATES BANKRUPTCY COURT
15 EASTERN DISTRICT OF CALIFORNIA
16 SACRAMENTO DIVISION

17 IN RE:

18 MANUEL ALLEN SABIN and ALISA
19 MARIE SABIN,

20 Debtors.

Case No. 2010-52789

Chapter 11

DCN: UST-1

**CREDITORS' RESPONSE TO U.S.
TRUSTEE'S MOTION FOR
CONVERSION OR DISMISSAL OF
CHAPTER 11 CASE**

Hearing Date: September 19, 2011

Time: 10:00 a.m.

Courtroom: 28

Judge: Michael S. McManus

21 Creditors KARSAN T. ELLIOTT, individually, and JAMES A. MOORE, as Successor
22 Trustee of the WALTER C. ELLIOTT and GEORGANA ELLIOTT REVOCABLE TRUST
23 ("Creditor") provide this response to the United States Trustee's Motion for Conversion or
24 Dismissal of the Debtors' Chapter 11 case.

- 25 1. Debtors filed their chapter 11 petition on December 15, 2010.
- 26 2. The U.S. Trustee has filed a Motion for Conversion or Dismissal of Debtors'
- 27 Chapter 11 case citing "cause" based upon Debtors' failure to file or timely file their monthly
- 28 operating report.

4. This Creditor does not object to the U.S. Trustee's motion but favors dismissal rather than conversion as dismissal is in the best interests of creditors. Both Debtors are doctors and have substantial on-going income and earning potential in which to repay creditors. Creditors should be able to use state law to pursue repayment in these circumstances.

5. Moreover, it is expected that Debtors are not eligible for a Chapter 7 case due to their substantial income and earning capacity. A Chapter 7 means test analysis will likely demonstrate a presumption of abuse.

This responding Creditor does not object to the U.S. Trustee's Motion but requests that the Court dismiss the Chapter 11 case as a dismissal is in the best interests of creditors given Debtors substantial income and earning capacity.

TRAINOR FAIRBROOK

By: /s/ Jennifer L. Pruski
JENNIFER L. PRUSKI

PROOF OF SERVICE

I, Sandra J. Morris, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 980 Fulton Avenue, Sacramento, California 95825-4558. On August 30, 2011, I served the within documents:

CREDITORS' RESPONSE TO U.S. TRUSTEE'S MOTION FOR CONVERSION OR DISMISSAL OF CHAPTER 11 CASE

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California addressed as set forth below.
- ☐ by causing personal delivery by _____ of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by placing the document(s) listed above in a sealed _____ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for delivery.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

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4	Employment Development	Franchise Tax Board
5	Department	Post Office Box 2952
6	Bankruptcy Group, MIC 92E	Sacramento, California 95812-2952
	Post Office Box 826880	
	Sacramento, California 94280-0001	
7	GE Money Bank	GMAC Mortgage, LLC
8	c/o Recovery Management	c/o Stefanie A. Schiff
9	Systems Corp.	4375 Jutland Drive #200
	Attn: Ramesh Singh	Post Office Box 17933
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18	Nelnet	Office of the U.S. Trustee
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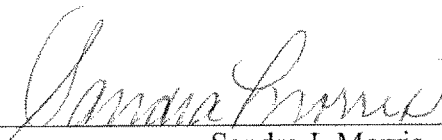
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 30, 2011, at Sacramento, California.



Sandra J. Morris